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Jewish Emancipation :

The Contract Myth

by

H. SACHER

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Jewish Emancipation: The Contract Myth.

BY H. SACHER.

ONE common argument against Zionism, which those who employ it think particularly effective, is the contention that the very profession of Zionism is both a breach of faith by Jews and a peril to Jews. It is a breach of faith, they say, because it repudiates the fundamental principle by virtue of which the grant of civic equality was made to Jews in those countries where such a grant has been made. It is a peril because it deprives the emancipated Jews of their title deeds to civic liberty and equality, while it renders powerless the one instrument which could open the gates of freedom to those Jews who are still unemancipated.*

What, according to this contention, is that fundamental principle upon which the Jewish emancipation of the past rested and the Jewish emancipation of the future must rest? It is easier to ask that question than to get a precise answer to it, but, so far as may be gathered from the vague formulation of the critics of Zionism, this is their thesis:—The Jews were conceded emancipation as a sect and because they were a sect. It was a condition, express or implied, that they should renounce or repudiate on behalf of themselves and their descendants for all time any pretensions to being a separate nationality, or having national hopes and aspirations, or possessing a national tongue or differing in any respect except the profession of certain religious

* This pamphlet was written before the Russian Revolution. That momentous event confirms the thesis which the author presents. The inspiration of the Russian Revolution is the political equality of all citizens coupled with the rights of nationality. These two great principles are proclaimed by the Russian Revolution each as the natural complement of the other, and the conflict between them upon which the emancipation contract myth has rested is repudiated in a most decisive fashion.

doctrines from their Christian fellow-subjects. Emancipation was thus a contract. On the one hand, the Gentile state and nation promised civic equality to the Jews ; on the other, the Jews promised to be solely a religious community and to abandon all national quality.

This thesis is assuredly one of the most curious in the history of controversy, and it has implications and ramifications far more extensive and complicated than those who employ it seem to have perceived. When it is claimed that emancipation was conceded to the Jews as a sect, two distinct interpretations are possible. It may be meant that the legislator was moved to act because of some positive quality in the Jewish religion which commended Judaism to him and convinced him that the Jew, because he professed this particular religion, was worthy of citizenship. Or it may be meant that the legislator, having examined and tested the tenets of the Jewish religion, came to the conclusion that there was nothing in them to disqualify the Jew for citizenship. In other words, emancipation was granted to the Jew either *because* of his Judaism, or *in spite of* his Judaism. The anti-Zionist never bothers to make clear which of these interpretations he really intends, although the distinction is important. If the contention be that the Jew was conceded civic equality *because* of his Judaism, then it is a correct formulation to say that emancipation was given to Jews as a sect or a religious community. But if the contention be that the Jew was conceded civic equality *in spite of* his Judaism, then it is an abuse of language to say that emancipation was given to Jews as a sect. In the one case their religion would be the Jews' title to liberty ; in the other case it would be their presumed disqualification, and the onus of rebutting this presumption would rest upon the Jews.

Let us examine both interpretations a little more closely. If emancipation was granted to the Jews *because* of their Judaism, then two deductions are indisputable ; (1) that the Judaism which constitutes the title of the Jews to emancipation must be the Judaism which the legislator knew, the contemporary Judaism which commended itself to him, and (2) that

the legislator reserved the right to watch the subsequent development of Judaism, and the professors of new forms of Judaism are bound to show cause why they should be permitted the same civic rights as the professors of the older forms of Judaism. Manifestly, the legislator in each country, just as he was legislating for the Jews of that country, could legislate only on the basis of the Judaism of that country. In order, therefore, to discover which Jews in every country have, on the version of the emancipation contract doctrine which we are now considering, an unquestioned title to civic equality, an inquiry would be necessary as to which forms of Judaism were publicly professed and officially recognised in each country at the time of emancipation. So extensive an investigation would carry us too far afield, but even if the inquiry be limited to England it affords interesting and fruitful results.

There were only two forms of Judaism professed in England at the time of emancipation: orthodoxy and what may be called the conservative variety of reform. Only the profession of one or other of these two varieties of Judaism would give an unquestioned title to civic equality if emancipation was granted to Jews *because* of their Judaism. The profession of any other variety of Judaism would be *prima facie* a breach of the emancipation contract so far as the professors of the new variety are concerned. They would have lost their title to civic equality, and they could recover it only by convincing the legislator of their virtue, as did the adherents of the two older forms of Judaism, and obtaining from him, as they did, a patent of good citizenship. They could not, it is submitted, count upon a mere *acquiescence* on the part of the legislator, and argue that their right to civic equality was not invalidated by their profession of a new form of Judaism until the legislator chose to call it in question. They could not do so because the title of Judaism (in the hypothesis we are now considering) rests upon a positive quality, not upon a mere negative quality. Indeed, there is the very nice question whether a legislator who emancipated Jews *because* of their Judaism could extend equality of citizenship to professors of new

forms of Judaism differing in important respects from the older forms without logically disfranchising the professors of those older forms.

If the title of the orthodox Jew and of the conservative-reform Jew in England to civic equality cannot be questioned, the title of the "liberal" Jew of the school of Mr. C. G. Montefiore is manifestly non-existent. "Liberal" Judaism is a post-emancipation form of Judaism, which is not only different from the two forms current in the emancipation period but is in direct conflict with fundamental principles common to both. If Jews in England were given citizenship *because* of their Judaism, then the "liberal" Jews have broken the emancipation contract and forfeited their civic rights. It is notorious that Mr. C. G. Montefiore is one of the most ardent propagators of the emancipation contract idea, and there is a certain justice in this idea, in one of its interpretations, demonstrating itself a two-edged sword which cuts the thread of Mr. Montefiore's own citizenship. The more radical reform which stands midway between the old conservative-reform and "liberal" Judaism would probably be in the same unhappy position as "liberal" Judaism, since that was unknown in England at the time of emancipation. And what of the Judaism of the "Englishman of the Jewish persuasion," the Judaism which asserts that it is a mere cult, that it knows neither a Jewish nation nor a Jewish culture, that save for certain religious doctrines wholly barren of practical consequences and effect it leaves the Jew "in all respects the same as his Christian fellow-citizen in aspirations, tastes, habits and ideals"?* We shall, later on, inquire whether such a Judaism was known and publicly recognised at the time of emancipation. If we find it was not, then it must be concluded that if emancipation was conceded to Jews *because* of their Judaism, then the "Englishman of the Jewish persuasion" has suspended if not destroyed his right to citizenship by adopting a new and radically different form of Judaism.

* See "Zionism," by "An Englishman of the Jewish Faith" (*Fortnightly Review*, Nov., 1916, vol. c., p. 819).

But what are the logical implications if the emancipation contract doctrine means that emancipation was granted to the Jews *in spite of* their Judaism—that is to say, that the legislator extended civic equality to the Jews because he had satisfied himself that Judaism, whatever other defects it might have in his eyes, was not anti-social in faith and practice, and did not unfit the Jew for citizenship? A preliminary consequence has been pointed out before, but may well be repeated—that it is an abuse of language to say that emancipation was given to Jews as a sect, when what is really meant is that it was given to them *in spite of* their being a sect. Negatively, it follows from this version of the doctrine that the right to citizenship of adherents to forms of Judaism not known to the legislator at the time of emancipation is put in question, if not destroyed. It was not *their* Judaism which the legislator approved, for he did not know it. “Liberal” Judaism, radical reform Judaism, and (as will be shown) the Judaism of the “Englishman of the Jewish persuasion” may be consistent with good citizenship, but, unlike orthodox Judaism and conservative reform Judaism, they have not formally demonstrated it and received the seal of Parliamentary approbation. They may be able to vindicate their social virtue, but until they have done so their status is an inferior one, and the title of their adherents to civic equality one that can be impugned. Such seems to be the negative effect of the emancipation contract doctrine which asserts that emancipation was given to the Jews *in spite of* their Judaism.

On the positive side it is manifest that this doctrine puts the seal of Parliamentary sanction upon those forms of Judaism of which the legislator at the time of emancipation was cognisant. The legislator must be assumed to have passed its tenets and practices in review and to have been satisfied that they were consistent with loyal British citizenship. As has been said, the only two forms which we can be certain were brought to the notice of the legislator were orthodoxy and conservative reform. Was or was not Jewish nationalism an element in orthodoxy or conservative reform? If it was, then we are compelled to conclude that the legislator sanctioned Jewish

nationalism, and conceded civic equality to Jews in the full knowledge that Jewish nationalism was part of the Jewish religion, and in the conviction that Jewish nationalism was quite consistent with loyalty and patriotism as an English citizen.

It would not be difficult to show that the belief in the national restoration of the Jews to Palestine was an article of faith in emancipation times even of conservative-reform Judaism ; and this faith is utterly inexplicable without the conviction that the Jews are a nation. Out of that conviction it springs, and in that conviction its roots are and must be struck deep. For the immediate purpose it will suffice to demonstrate that Jewish nationalism is an element in orthodox Judaism, for that will be enough to prove that the emancipation contract theory, so far from imposing a ban upon Jewish nationalism (as those who put forward the theory assert), sanctions it.

If any proposition can be asserted of orthodox traditional Judaism, it is that it is penetrated with Jewish national sentiment. At the admission of the Jew into the covenant of Israel we pray for the restoration of " the nation who are one although scattered and dispersed among the nations." When he assumes the burden of the Law he thanks God for having planted eternal life in the midst of the Jewish people, and prays God to gladden us "with the kingdom of the house of David, the anointed, that he may come speedily, and that a stranger shall not sit on his throne or others usurp his glory." When he weds he prays that " speedily may the voice of rejoicing and of gladness of bridegroom and bride be heard in the cities of Judah and in the streets of Jerusalem." When he passes to his grave his kin are comforted "with those who mourn for Zion and Jerusalem." At every stage of the Jewish pilgrimage he is linked with the past and the future of the Jewish people. Morning, afternoon and evening, feast and fast, every occasion and every act of the Jew are placed in the setting of the Jewish people, whose glories and sufferings and hopes give them their significance. Every page of the Jewish liturgy cries out that the Jewish religion is not a cult of a haphazard association of individuals, but the spiritual experience of the

Jewish nation, the Jewish nation's way of life, the Jewish nation's reading of the riddle of the universe. Every Jew who has ever claimed harmony with Jewish tradition has believed in the eternity of the Jewish nation and in its ultimate restoration.

There are sects claiming to be Jewish which repudiate Jewish nationalism and Jewish national hopes. But these do not profess to be in harmony with Jewish tradition, still less do they deny that the traditional Jewish liturgy is penetrated with Jewish nationalism. On the contrary, they have admitted its national character by abandoning it, or by endeavouring by a process of vain surgery to excise from it its nationalist elements—vain because without them it is the shadow of a shade.

Two other varieties of Jewish opinion call for a word. There are orthodox Jews who profess a fervent faith in the redemption and restoration of the Jews, but hold that these will be achieved only by a miracle. The theological soundness of this view need not be discussed here, but it is evident that a fervent faith of this kind is just as deep and penetrating a faith in Jewish nationalism as belief in a more human agency. For God's power is not in the compass of man, who does not know in advance where it will express itself; so that the faithful must be prepared for the coming of Jewish redemption at any hour.

The other school of thought (if one may dignify the artificial expedient of a few with such a title) does not repudiate in terms the nationalist quality and aspirations of the Jewish religion, but asserts that the faith in the Jewish restoration to Palestine was a mere pious dogma, which had no effect at all upon life and action, that everything was conceived as shadowy, remote, impersonal, in brief, that it was no faith at all, but a relic, an outworn survival, a useless appendage without relation (except the possibility of disease) to real living practice and belief. One contrasts with this fabrication of the nineteenth century the repeated and passionate demand of the Jewish liturgy that the redemption may come "speedily" and "in our day," one remembers the bitter saying of the Rabbis, "the *galuth*, exile from Palestine, atones for all the sins of the Jews," and one recalls the faithful Jews

who through the darkness of the Diaspora have regularly risen up and do rise up in the watches of the night to pour out their souls in an agony of tears for the exile of the Jewish people and of prayers that the exile may end—

“ How shall we sing the song of God in a strange land ? If I forget thee, O Jerusalem, may my right hand forget her cunning. If I do not remember thee, let my tongue cleave to the roof of my mouth, if I prefer not Jerusalem to my chief joy.”

It is difficult to bear patiently with men who can seek to abolish by a smooth phrase this burning faith, because they themselves have no faith and the faith of others irks them. The Rabbis knew such men, and characterised them in a phrase :—“ The flesh of the dead does not feel the knife.” Their Judaism is dead, and does not feel the knife, and they would that the Judaism of others were as dead as theirs. This complete lack of spirituality, of that sincerity without which religion is hypocrisy, is the peculiar mark of those who profess that the Jews are nothing but a sect and Judaism no more than the religion of a sect.

The epithet “ insincere ” has been applied to these men. It is severe but just. Those who claim that Judaism is simply a “ religion ” and Jews only a sect, and who further claim that the Jewish religion is the sole bond which unites the hosts of Jewry scattered throughout the world, must be presumed to attach some importance to “ religion ” in general and to the Jewish “ religion ” in particular, since they are asking it to bear so great a burden as the preservation of the unity of twelve millions of men diffused through every quarter of the globe. All religion, if it is to have any reality, must affect its faithful adherents deeply ; it must colour their thoughts, direct their conduct, purify their emotions ; it must be very near to the essence of their being, not a mere ritual filling a ceremonial hour, or a garment lightly assumed at intervals and as lightly cast away. And the Jewish religion must have a distinctive character of its own to justify its title to have a separate existence and to sustain an

association of the faithful as wide as the globe. What then is the character of the Jewish religion which figures so importantly in the emancipation contract myth? Those who employ the myth so zealously against Zionism are usually prudent enough to avoid defining it. In the vague description of it offered by a writer in the November (1916) issue of the *Fortnightly Review*, it is an accumulation of negations. It suffers Hebrew in the Synagogue on condition that Hebrew remains a dead language, and that most worshippers have a scanty knowledge of it; it will not utterly condemn belief in an ultimate restoration of the Jews to Palestine provided that this is only a "pious dogma," and that the restoration is to happen in a future so *very* distant that it is as good as one that will not happen at all; finally, it leaves the Jew in all respects the same as his Christian fellow-citizen "in aspirations, tastes, habits and ideals"—in other words, it has no influence at all upon the Jew. In short, it has no positive quality which can give a meaning to Judaism or to Jews. One is reminded of the Cheshire cat which faded before the eyes of the observer until nothing was left of it but a smile, only of this Cheshire-cat Judaism what is left is not a smile but a knowing wink and a smirk.

When a man claims that he and all other Jews are Jews by religion only and keep together only to sustain and perpetuate a peculiar religion, and when this man, called upon to define this religion, can say no more than that it leaves Jews indistinguishable "in aspirations, tastes, habits and ideals" from Christians, and has no distinctive influence at all upon their conduct, thought and outlook—then we are entitled to say that such a man does not know the meaning of religion, still less is he penetrated by religious conviction. For such men religion is not a fire, but a mere counter in political discussion. Inevitably they are as disrespectful to Christianity as to Judaism. They reduce the one as surely as the other to a meaningless phantom when they say that the Jew after four thousand years of Judaism is indistinguishable from the Christian in "aspirations, tastes, habits and ideals." For if twelve

centuries of Christianity have not left their mark upon the "aspirations, tastes, habits and ideals" of the Christian Englishman, what is Christianity?

It is part of the radical insincerity of this school of thought that not only does this "religion" of theirs fail utterly to give a logical support for their own lives, but it fails just as dismally to fit the facts of the life of Jewry. If a religion is to be the bond uniting the scattered hosts of Jews, it must be a religion which is common to them and recognised as common to them. But there is no such thing as a catholic Jewish church with common dogmas, practice and obedience. M. Reinach, one of the most prominent exponents of the theory that Jews are only a sect, once published an essay in which he contended that the real Jewish question was economic and could be solved if Jews would only eat that cheap and nourishing food, pork. An orthodox Jew would write him down as an atheist without a sense of humour. Mr. C. G. Montefiore, another prominent professor of the same theory, wants Jews to admit the New Testament to the Jewish Canon, to recognise Jesus as one of the greatest of the prophets, to accept celibacy as higher than marriage, to regard divorce with horror, and to banish Hebrew. Orthodox Jews regard him as a rather gloomy and unenterprising kind of Christian. Besides these there is a great variety of forms of Judaism professed by men born Jews and claiming the name of Jews. But to urge that the only thing which unites this chaos of religious beliefs, disbeliefs, observances and non-observances is a common religion is to talk the veriest nonsense. To this absurdity the patrons of the emancipation contract myth seem to be driven by their zeal to combat Zionism.

The real bond of union is different, and the writer may be permitted to quote in this connection what he has said elsewhere: "A common faith does not link these heterogeneous units, because they have no common faith; a common church does not exact their allegiance and impose a common fellowship, because they are not members of a common church. Does the world offer any instance of a religion wide enough to embrace men to whom the whole Bible is an archæological

curiosity, men to whom Jesus is the greatest of the prophets, and men to whom the New Testament is anathema? Does the world offer any instance of a church comprehensive enough to include sects as various as French illuminati, Christolaters, and loyal adherents of the *Shulchan Aruch*? Yet that is the grotesque fiction which anti-Zionist Jews have to call into being in order to rest their sympathy with other Jews upon a religious basis. The truth is that the bond of union between them and the oppressed Jews of all lands is the bond expressed by the Hebrew name of the *Alliance* (an organisation which is to-day the stronghold of anti-nationalist Jews, but which was founded to constitute a kind of political substitute for the Commonwealth of Israel shattered by the Revolution and the emancipation period): *Kol Israel Chaberim*, all Jews are brothers. It is the sense of kinship, of racial solidarity. They are nationalist Jews in spite of themselves, because Jewish national or racial interest of some sort is the only bridge which can carry them across to their brethren. . . . When the anti-Zionist Jew takes an active interest in the welfare of other Jews, he is taking an interest not in members of the same sect but in members of the same race. The aim of the *Alliance* is philanthropic, the aim of the Zionist organisation is nationalist. But the *Alliance* is as surely a monument to Jewish racial solidarity as the Zionist organisation. Jewish racial solidarity called it into being, and Jewish racial solidarity kept it in being. It follows that the "Englishman of the Jewish persuasion" who interests himself actively in the *Alliance* or any similar institution comes into as direct a conflict with his own conception of English citizenship as does the Zionist.*

For orthodox Jews these insincerities and contradictions, this violence to logic and to facts, do not exist. For them Judaism is not just a "religion" in the Western sense at all. "Here religion and life, religion and nationality are identical, and their identity, which is an outcome of the Jewish conception of life, must be accepted as a definite historic truth, explicable as a result of

* *Zionism and the State*, by H. Sacher (1915).

definite historic causes. . . . Judaism, then, is no "religion" in the non-Jewish sense, it is a way of life, the way of life of the Jewish people, expressive of and inspired by a particular conception of God. In this sense it has a "religious" basis, but the basis is inseparable from the structure, and Judaism is the indissoluble combination of the two. The Rabbis have expressed the truth in one of their pregnant sayings: 'Even though he has sinned he is still a Jew.' "†

This denationalised Judaism, this Judaism for which the Jewish national past was dead and the Jewish national future an idle and insincere formula, could certainly be found at the time of the emancipation in Germany. It is possible that it may have owned a few professed adherents in England; but it was not the Judaism of the only authoritative and organised exponents of Judaism, and there is no trace in the Parliamentary debates that the British legislator was conscious of its existence. It is reasonable to infer that if indeed emancipation in England was conceded to Jews as a sect, it set the seal of approval upon Judaism as the national religion of the Jews with all that that implies, while it could not have approved the anti-nationalist form of Judaism, of which it knew nothing. It is those Jews, therefore, who repudiate Jewish nationalism, and not the nationalist Jews, whose title to civic rights is brought into question by the emancipation contract theory.

There is another aspect of this theory which those who put it forward have missed. They have failed or refused to notice how discreditable it is both to the Jews and to the English people. The English legislator (such is the emancipation contract theory) demanded of the Jews as the price of civic equality that they should eliminate from their religion its national soul, that they should deny their national quality and that they should abandon their national aspirations. What should we think of those who could make such a demand? What should we think of those who could accept it? What should we think of those who could make partnership

† F. S. Spiers in *Zionism and the Jewish Religion* (1915), in which the relations between the two are fully discussed.

in such a transaction the glory of the English Jews and their aptness for such a transaction the signal and indeed the indispensable proof of the fitness of Jews for loyal and faithful citizenship? Emancipation, instead of standing out as a landmark in the history of tolerance, would have to be reinterpreted as a supreme manifestation of British intolerance, and the rock upon which the loyalty of Jews to the country in which they live is built would be disloyalty to their own religion and nation. There is one case recorded in which such a proposal was made to the Jews by the Bavarian Parliament. Gabriel Riesser, the leader of the struggle for emancipation in Germany, proudly retorted that the conscience of the Jew cannot be made the subject of a bargain. What other answer could be made by men who respected themselves and desired the respect of others?

But the anti-Zionist Jew who makes such a bargain the pillar of his doctrine rejoices that Israel should have been asked and should have consented to sell his birthright and his conscience, and proudly proclaims that by the repetition of this perfidy, and only by the repetition of this perfidy, will Israel open the doors of his prison house in all the lands which still hold him in servitude. Just as his doctrine involves the degradation of Judaism and Christianity, so it involves the degradation of the Jew and of the Gentile Governments which have admitted him to freedom. If he is not appalled by these consequences of his doctrine, we must conclude either that his courage and his insensibility are robust indeed, or that he is unable or declines to follow his teaching whither in logic it leads.

A transaction may be discreditable to those alleged to be partners to it, it may, on stricter elucidation, involve consequences the reverse of what is desired by those who assert its authenticity, it may rest on assumptions in violent conflict with the facts of life—but these circumstances are not enough of themselves to prove that the transaction never took place. They suffice only to demonstrate that it ought not to have taken place. Whether it did or did not take place is a question of historical fact. So we reach the second stage of our inquiry, the stage of historical investigation.

Was there, as a matter of historical fact, an emancipation contract between the Jews and the sovereigns of the states which emancipated them, a contract by virtue of which the Jews, in return for civic equality, repudiated their national existence and renounced for all time their national aspirations?

Those Jews who are hostile to Jewish nationalism commonly talk as though their contract theory (whatever its worth) applied to all countries in which Jews enjoy civic equality. In that form it is manifestly unhistorical. Jews enjoy civic rights on paper or in reality (to speak only of the greater states) in the United States, France, Germany, Austria-Hungary, Italy, Turkey, and the British Empire. In the United States Jews enjoy civic rights on precisely the same terms as other American citizens, they received them at the same time, and no special legislation was enacted on their account. Their title is based upon the Federal and State Constitutions, which are all inspired by the belief in the rights of man, the conviction that all men are by nature free and independent. There can, therefore, be no question of the civic rights of American Jews resting upon an emancipation contract. So far as those 2,000,000 Jews are concerned the emancipation contract theory cannot claim even the shadowy authority of a myth.

It applies equally little to the French Jews. They were emancipated as a logical consequence of the revolutionary movement, and in virtue of the sacred rights of man. At that time the Jews were a nation apart in France. They had their own communal organisation, their own private law, their own administration and fiscal system, their own educational system, even their own vernacular. In the brief debates in the Constituent Assembly the national separateness of the Jews in faith, blood and institutions and their hopes of a restoration to the land of their fathers are a constant theme in the mouth of the opponents of emancipation. That fact does not prove that the Constituent Assembly gave the Jews civic equality *because* of their national character; it does prove that it acted with full knowledge of their national character and in the conviction

that it was consistent with loyal citizenship to the French state. Still less can there be any question of repudiation by the Jews of the national element in Judaism in return for citizenship. Judaism in France, except for individual aberrations, remained strictly orthodox for many years after emancipation. It was Napoleon who, first and last of French rulers, intervened in Jewish religious affairs. His policy towards Jews and the summoning of the Assembly of Notables, "the Great Sanhedrin," are the subject of curious legends in what passes for Jewish history. This is not the place to correct these errors and misrepresentations, but certain features relevant to the present discussion should be noted. Champagny, the Minister of the Interior, defines the function of these gatherings of Jews to be "Que ces assemblées donnassent par leur délibérations, pour ainsi dire, des armes contre elles mêmes et contre la race dont elles défendent la cause." In order to achieve this every precaution was taken to secure that their members should be "les hommes sur les dispositions desquels on peut compter." To guarantee their subservience Napoleon gave instructions that the Rabbis of the Sanhedrin should be placed "entre la nécessité d'adopter les explications ou le danger d'un refus dont la suite serait l'expulsion du peuple juif." The pronouncements of the Sanhedrin, such as they are, were extorted by the sword and have no moral validity. But there are limits even to what Napoleon dared to attempt to extort from Jews. In the twelve questions submitted to the Assembly of Notables in the Great Sanhedrin there is no suggestion or hint that the Jews should repudiate their nationality. It is quite true that in the preamble of its declarations the Sanhedrin asserts that the Jews no longer constitute "un corps de nation," but as may be seen from the context and from the speech of Furtado, the Voltairian president of the Assembly, what was meant by "*corps de nation*" was "*corps politique*" in other words, state. This in spite of the fact that Napoleon in discussing the summoning of the Assembly put it on record that "il faut considérer les Juifs comme nation et non comme secte. C'est une nation dans la nation." It is worthy of note that the

deliberations of these Jewish bodies were followed by the only official programme of anti-Semitism in the history of modern France. From what has been said it is clear that there can be no historical foundation, so far as the 100,000 and more Jews of France are concerned, for the emancipation contract theory. They did not receive civic equality in exchange for their repudiation of the national quality of Judaism and the national hopes of Jews.

A study of emancipation in Germany leads to the same conclusion. It is quite true that many exponents in Germany of the Jewish case for emancipation sought to strengthen that case by denying that the Jews are a nation. It is also true that the "Reform" movement sought to eliminate the national elements from Judaism, and a change of cult was achieved in the hope and with the desire of furthering a political agitation by convincing the Germans that the Jews of Germany were really indistinguishable from them. Those Jews, it may be said, were prepared to bargain the Jewish nation, and many of them to bargain the Jewish religion, in return for the right to vote and the right to a career ; they were, in short, apt for the emancipation "contract." It would, however, be a gross reflection on the mass of German Jewry to pronounce these men representative. They were as little representative of German Jewry of the emancipation period as the group of Berlin Jews and Jewesses after Moses Mendelssohn, who assumed baptism for social advantage, were representative of German Jewry at the end of the eighteenth and in the earlier part of the nineteenth century. With as little truth could it be argued that this readiness of a minority for a discreditable transaction was the cause of emancipation. Most German states admitted Jews to civic equality during the revolutionary upheaval of 1848-9, and the process was completed in 1871. Emancipation was not the result of Jewish action at all, still less was it the consideration in a contract by virtue of which Jews surrendered their national quality and discredited their religion. It came because of the transplantation to Germany from France of the revolutionary spirit ; it was granted in the name of liberty, equality and

fraternity. As Graetz says, "What the most sanguine (Jews) had never ventured to hope for had suddenly taken place."

In the period following emancipation there was a definite weakening of the national consciousness among German Jews, accompanied by the elimination from the Jewish religion of much of its national content. But that fact furnishes no historical basis for the emancipation contract myth, although it does serve to show that the more immediate consequence of emancipation has commonly been a decay of Jewish national feeling and of Judaism. It should be noted, however, that German society and the German Government (both evilly distinguished by anti-Semitism) have not displayed any readiness to reward this servile complaisance and to fulfil the rôle allotted to them by the emancipation contract myth. In justice to German Jewry, one may add that for years there has been a steady reaction against the assimilation tendency, and that the German Zionists constitute one of the most respectable elements of the Zionist body in numbers, zeal and talents.

The story of emancipation in Austria-Hungary is *mutatis mutandis* the same as that in Germany. That of Italy corresponds with that of France. In Turkey the civic rights of the Jews are as old as, as real as, and rest upon the same foundations as those of other citizens. Survey the course of events in all the continental countries, and it is found that neither there nor in America is there any historical foundation for the emancipation contract myth. It is a sheer myth, an invention devised with the desire to bolster up a political theory. It remains to consider whether it has any more historical reality in the case of England, the sole country which is left for its alleged operation.

A few words may be said as to the general political milieu in which the emancipation of the Jews of England was achieved. The first parliamentary debate was in 1830; the controversy was closed in 1860. It began in the year of revolt against the Holy Alliance, it ended in the year of the liberation of Italy, and its midpoint was the astonishing year of the uprising of the nations. The conflict covered the period of a generation, the period

which asserted and established two fundamental claims : the claim of the individual, without distinction of religion or race, and by virtue of his humanity and the principle of liberty, equality and fraternity, to civic freedom, and the claim of nations to self-determination. Now it is true that the storms and struggles of those thirty years in large measure avoided England, but the English people were keenly interested in the fortunes of the nations of the continent, and gave moral and diplomatic support to their strivings for individual liberty and national emancipation. Never, indeed, has British popular and even official sympathy with liberty and nationality been so general, powerful and unalloyed. Yet, according to the emancipation contract theory, it was precisely during this period that there was conceived, prepared and executed that transaction between the Jews of England on the one hand and the British Government and people on the other, under which the Jews surrendered their national past, present and future, and took the national core out of their religion as the price of individual political rights. On the face of it, that is not very probable, and manifestly an assertion so improbable must, before it is accepted as a fact, be confirmed by proofs of the solidest character. Let us consider the evidence.

The evidence which calls first for examination is the official documents upon which emancipation rests. Without entering into the details of what Erskine May not unjustly calls "this tedious controversy," it is sufficient to recall that the legal obstacle to the political rights of Jews was the declaration "on the true faith of a Christian." This declaration was dispensed with by statute, in the case of municipal office, in 1845. In the terms of that statute no hint will be found of a contract by the Jews to surrender their national existence and religion in return for the privilege of becoming councillors, aldermen and mayors. The operative clause runs thus :—

" Instead of the Declaration required to be made and subscribed by the said Act, every Person of the Jewish Religion to be permitted to make the following Declaration within one Calendar Month next before or upon the Admission into the Office of Mayor,

Alderman, Recorder, Bailiff, Common Councilman, Councillor, Chamberlain, Treasurer, Town Clerk, or any other Municipal Office in any City, Town Corporate, Borough or Cinque Port within *England* and *Wales* or the Town of *Berwick-upon-Tweed*.

“I, A.B., being a Person professing the Jewish Religion, having conscientious scruples against subscribing the Declaration contained in an Act passed in the Ninth Year of the Reign of George the Fourth, intituled *An Act for repealing so much of several Acts as impose the Necessity of receiving the Sacrament of the Lord's Supper as a Qualification for certain Offices and Employments*, do solemnly, sincerely and truly declare, That I will not exercise any Power or Authority or Influence which I may possess by virtue of the Office of to injure or weaken the Protestant Church as it is by Law established in *England*, nor to disturb the said Church, or the Bishops and Clergy of the said Church, in the Possession of any Right or Privileges to which such Church or the said Bishops and Clergy may be by Law entitled.”

The gates of Parliament were opened to Jews by the act of 1858. This was a compromise measure, which enabled either House of Parliament to dispense in individual cases with the declaration “on the true faith of a Christian.” This was an arrangement devised to give the Commons the power to admit and the Lords the power to exclude the Jews. “The Commons might admit them to-day, and capriciously exclude them to-morrow. If the Crown should be advised to create a Jewish peer, assuredly the Lords would deny him a place amongst them. The evils of the compromise were soon apparent. The House of Commons was indeed open to the Jew: but he came as a suppliant. Whenever a resolution was proposed under the recent Act, the invidious discussions were renewed, the old sores were probed. In claiming his franchise, the Jew might still be reviled and insulted. Two years later, this scandal was corrected, and the Jew, though still holding his title by a standing order of the Commons, and not under the law, acquired a permanent settlement.”

To finish this brief summary—a new form of oath was established, from which the words “on the true faith of a Christian” were omitted, by the 29 and 30 Vict. c. 19. This opened the House of Lords to a Jew, and in 1885 Lord Rothschild was created a peer of the realm.

Two conclusions follow: (1) that there is no warrant in the Acts and standing orders which form the legal foundation of Jewish emancipation, that is to say, in law, for the emancipation contract theory, and (2) that if such a contract was actually made the bargain was very much harder and more discreditable than those Jews who allege the contract commonly suffer to appear. The Act of 1858 which they celebrate did not make Jews equal citizens. They had to supplicate for permission to enter the legislature, and that permission might be withheld after a humiliating debate. Yet the emancipation contract theory insists that it was for this mutilated and unequal citizenship that England claimed and Jewry conceded the surrender of Jewish nationality and the emptying of the Jewish religion of its characteristic quality.

There is no hint in the public legislative documents of an emancipation contract. Was there some secret agreement? As that absurdity is not hinted even by those who build upon the emancipation contract, we need waste no further space upon it. But was there some tacit agreement, was there an understanding not binding in law but binding in morals? Was the case for emancipation presented by the Jews in a form implying the denial of their nationality, and accepted by the legislature contingent upon that denial? We need not discuss the numerous and difficult assumptions which underlie such a formulation of the contract theory—such as the right of individual Jews or non-Jews to assume to represent and bind the body of Jewry and their descendants for all time, or the right of the individual members of the legislature or other individuals to introduce qualifications and conditions of citizenship unknown to the law itself. No court of law, it is manifest, would look at such alleged rights, claims or contentions, which, if admitted, would introduce chaos and anarchy into the administration of justice. And a court of

morals, however much more flexible in its procedure, would require an alleged agreement of this grave and far-reaching character to be stated in precise terms. Those who propound the emancipation contract theory would not be suffered to persist in the deliberate vagueness and obscurity under which they shelter. Such are some of the difficulties which face them even at the outset of any serious attempt to *prove* the existence of an emancipation contract. We need not linger on them, because, in point of fact, there is no evidence to support the allegation of such a contract, however informal, tacit, implied or purely equitable.

Such a contract, if it existed, would be best evidenced by the debates in Parliament. No description or analysis of these debates can be exhaustive or characterise them fully, and those inquirers who wisely prefer to drink from the fountain itself must resort to the pages of Hansard. In 1830, Mr. Grant, who moved the first resolution in favour of emancipation, summarised the objections under these heads :—

(1) Our institutions were based upon the Christian religion.

(2) Jews are “a sort of wandering dispersed people concerned in operations between different countries but belonging to none.” By others the same idea was expressed in the phrase “the Jews are a distinct nation.” Sir Robert Inglis, in 1833, put it thus :—“The nationality of the Jews was a strong argument against their admission to the rights now claimed for them. Would his noble friend disclaim on the part of the Jews the nationality which they claimed? Would he produce any Jew who would disclaim it? Place them in Poland, in Russia, in France, in Algiers, in China, they still regarded themselves as a separate nation, and they would resist the conferring of any benefit upon them founded upon a renunciation upon their part of that claim to a distinct national character.

. . . They must ever remain a distinct and separate nationality and strangers and sojourners

the Jews must be until the restoration of their own Jerusalem, their ultimate home."

(3) Something so demoralising in the state of some of this body that they were not fit to be invested with civil privileges.

These arguments recur time after time in the parliamentary debates, and they constitute the core of the case, as it was developed in England, against emancipation. The third is the least significant, and the first, no candid inquirer will doubt, was the most formidable. It was stated by a Mr. Percival in terms which indicated the emotion behind it. "I entreat the House in the name of the Lord Jesus Christ to preserve the religion of Christianity—the religion of the state—from being defiled by the introduction of the Bill now proposed." This argument lost its force as the conviction faded that the state is a religious society.

The second argument is more pertinent to the present discussion. The recurrence of the assertion that the Jews are a nation, "in expectation of shortly returning to Palestine" is so frequent throughout the course of these discussions that it was never possible for the legislature to ignore it. How was it met by the advocates of emancipation? Not by denying that the Jews are a nation or that they look forward to the return to Palestine, but by insisting that experience proved that this was perfectly compatible with good citizenship. A few—notably Cornewall Lewis and a Mr. Cooper—pushed their analysis further. Said Mr. Cooper: "There was a wide distinction between nationality and race. The Jews were not a distinct nation—there was no national organisation—they had no home except the country in which they happened to be. They were a distinct race, and he believed they would always remain distinct." Said Cornewall Lewis: "It was contended that they formed a separate nation, and that they were aliens in the country they inhabited. But the truth was that they were merely a separate race." We may quarrel with the terminology, but what was here being pointed to is the fundamental distinction between a state and a nationality. The state is a political institution, the

nation or nationality is a social institution. All the theoretical difficulties of a divided loyalty arise out of confounding the two, and imagining that each is the counterpart of or rather identical with the other, whereas a state may have jurisdiction over many nations and a nation be divided among states. The bitter experience of this war should have borne home to us this truth, and made it clear that the solution of an entirely artificial problem is to allow each nationality freedom to live its life, instead of endeavouring by tyranny to make the state coterminous with the nation and the nation coterminous with the state. The Mid-Victorian world was still so very much under the influence of Mazzinian nationalism, with its formula of homogeneous and unitary states, that the wider and truer doctrine of the state and the nation could not easily win its way. But we see men feeling towards it, and even those whose philosophy did not carry them to the theoretical formulation were carried by their feeling and their instinctive respect both for liberty and for nationality to the sound practical conclusion. The British legislature emancipated the Jews not because it was convinced that the Jews were not a nation (no effort was made to convince it of that), but because it was convinced that Jewish nationalism was perfectly compatible with good citizenship.

It would be a mistake to imagine that the opponents of Jewish emancipation thought of Jewish nationalism as simply an aspiration towards Palestine. The Solicitor-General in 1830 said of the Jews : "They had a peculiar character stamped on them by their own institutions, they were severed by them from all other people, they could not form a component part of any society in which they might be mingled, and as our laws had not made them Jews they would not make them Englishmen." Sir Robert Peel said : "The exclusion of the Jews does not arise from their political incapacities but from their own peculiar institutions and usages." Lord Belgrave put this point of view epigrammatically : "No, the fact was no man could be an Englishman so long as he remained a Jew."

What is the contention here urged ? That the Jews form a society with a life and a character of its own by

virtue of Judaism itself, its institutions, practices and teachings, and that that society (quite independently of Palestine) can disappear only when Judaism itself disappears. There is nothing here to comfort the Englishman of the Jewish persuasion, or to support the emancipation contract myth. How was the contention met? By admitting the fact and denying the conclusion. The legislature was satisfied that the fellowship of Jews and the Judaism which generates such a fellowship are perfectly compatible with loyalty to the state.

The conclusion of the matter is that there is not in England, any more than elsewhere, any historical foundation for the doctrine that emancipation was conceded to the Jews as part of a bargain by which the Jews agreed to surrender their nationality and to eliminate all national elements from their religion in return for civic privileges. Such a transaction, discreditable alike to the Jews and to the gentile Governments, is a sheer myth, which has been called into being by certain Jews in the hope of bolstering up their own opposition to Jewish nationalism—a task which, it has been shown incidentally, it is utterly unable to perform. It follows that this fabled surrender of Jewish nationality could have played no part in achieving Jewish emancipation, and the claim that it is the instrument which won Jews civic equality is as mythical as the emancipation contract itself. Jews, therefore, need take no account of it when deciding upon their policy and formulating their demands in relation to the present crisis in their history and in the history of the world. They know themselves to be a nation and to be recognised as such by other nations. They are assured that this war can find no satisfactory issue unless justice is done to the spirit of nationalism. The teaching of their own hearts combines with the teaching of this hour of history to dictate the course they must follow.



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